

Executive Summary – Enforcement Matter – Case No. 50468
F & K ENTERPRISE, INC. dba Kwik Mart
RN101784692
Docket No. 2015-0670-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Kwik Mart, 8300 La Prada Drive, Suite 130, Dallas, Dallas County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: October 23, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$17,538

Amount Deferred for Expedited Settlement: \$3,507

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$416

Total Due to General Revenue: \$13,615

Payment Plan: 35 payments of \$389 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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F & K ENTERPRISE, INC. dba Kwik Mart
RN101784692
Docket No. 2015-0670-PST-E

Investigation Information

Complaint Date(s): February 6, 2015

Complaint Information: Alleged this active underground storage system (“UST”) has an expired TCEQ delivery certificate.

Date(s) of Investigation: March 3, 2015

Date(s) of NOE(s): April 17, 2015

Violation Information

1. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on June 30, 2013 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, twelve fuel deliveries were accepted on January 24, 2014, February 21, 2014, March 18, 2014, April 14, 2014, May 10, 2014, June 3, 2014, July 31, 2014, September 5, 2014, October 7, 2014, November 10, 2014, December 8, 2014, and February 5, 2015 without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
3. Failed to provide corrosion protection to all underground metal components of a UST system. Specifically, the metal components of the three submersible turbine pumps did not have corrosion protection [30 TEX. ADMIN. CODE § 334.49(a)(4) and TEX. WATER CODE § 26.3475(d)].
4. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent had not conducted the annual line leak detector and piping tightness testing [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].
5. Failed to inspect all sumps, manways, overspill containers, and catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight and free of any liquid or debris [30 TEX. ADMIN. CODE § 334.42(i)].
6. Failed to ensure that all spill and overflow prevention devices are maintained in good operating condition. Specifically, the regular unleaded, super unleaded, and diesel spill buckets contained multiple cracks, preventing them from containing spills [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].

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7. Failed to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C [30 TEX. ADMIN. CODE § 334.602(a)].

8. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the annual testing of the Stage II equipment was not conducted by the March 5, 2014 due date [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH AND SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Submitted a properly completed UST registration and self-certification form, and obtained a valid TCEQ delivery certificate on March 5, 2015;
- b. Installed corrosion protection for the metal components of the submersible turbine pumps on May 19, 2015;
- c. Conducted the annual line leak detector and piping tightness testing with passing results on April 12, 2015;
- d. Began conducting bimonthly inspections of the sumps, manways, overfill containers, and catchment basins on March 30, 2015;
- e. Replaced the damaged spill bucket at the Station on April 1, 2015; and
- f. Conducted the annual testing of the Stage II equipment with passing results on April 18, 2015.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, obtain the required operator training and designate a Class A, Class B, and Class C operator; and
- b. Within 45 days, submit written certification of compliance with a.

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Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Rebecca Boyett, Enforcement Division,
Enforcement Team 7, MC 128, (512) 239-2503; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Naeem Bhairwala, President, F & K ENTERPRISE, INC., 8300 La Prada
Drive, Suite 130, Dallas, Texas 75228
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	20-Apr-2015	Screening	24-Apr-2015	EPA Due	
	PCW	2-Jul-2015				

RESPONDENT/FACILITY INFORMATION			
Respondent	F & K ENTERPRISE, INC. dba Kwik Mart		
Reg. Ent. Ref. No.	RN101784692		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	50468	No. of Violations	8
Docket No.	2015-0670-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Boyett
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$24,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History -10.0% Reduction **Subtotals 2, 3, & 7** **-\$2,400**

Notes: Reduction for High Performer classification.

Culpability No 0.0% Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$4,936**

Economic Benefit 0.0% Enhancement* **Subtotal 6** **\$0**

Total EB Amounts	\$910
Estimated Cost of Compliance	\$3,768

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$16,664**

OTHER FACTORS AS JUSTICE MAY REQUIRE 5.2% **Adjustment** **\$874**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance with violation nos. 1, 4, 5, and 8.

Final Penalty Amount **\$17,538**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$17,538**

DEFERRAL 20.0% Reduction **Adjustment** **-\$3,507**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$14,031**

Screening Date 24-Apr-2015

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PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 24-Apr-2015

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PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description Failed to renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on June 30, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 Number of violation days 613

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual (marked with x), single event.

Violation Base Penalty \$2,500

Two annual events are recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$625

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (marked with x).

Notes The Respondent achieved compliance on March 5, 2015 prior to the Notice of Enforcement ("NOE") dated April 17, 2015.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$113

Violation Final Penalty Total \$1,710

This violation Final Assessed Penalty (adjusted for limits) \$1,710

Economic Benefit Worksheet

Respondent F & K ENTERPRISE, INC. dba Kwik Mart
Case ID No. 50468
Reg. Ent. Reference No. RN101784692
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	3-Mar-2015	5-Mar-2015	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	30-Jun-2013	3-Mar-2015	2.59	\$13	\$100	\$113
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost (\$100 per full year) to accurately prepare and submit an updated registration and obtain a valid TCEQ delivery certificate. The Date Required is the expiration date of the delivery certificate and the Final Date is the investigation date.

Approx. Cost of Compliance

\$200

TOTAL

\$113

Screening Date 24-Apr-2015

Docket No. 2015-0670-PST-E

PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description

Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, twelve fuel deliveries were accepted on January 24, 2014, February 21, 2014, March 18, 2014, April 14, 2014, May 10, 2014, June 3, 2014, July 31, 2014, September 5, 2014, October 7, 2014, November 10, 2014, December 8, 2014, and February 5, 2015 without a delivery certificate.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 12 Number of violation days 12

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$9,000

Twelve single events are recommended for accepting twelve fuel deliveries.

Good Faith Efforts to Comply

25.0%

Reduction \$2,250

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent achieved compliance on March 5, 2015 prior to the NOE dated April 17, 2015.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$6,157

This violation Final Assessed Penalty (adjusted for limits) \$6,157

Economic Benefit Worksheet

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Case ID No. 50468

Reg. Ent. Reference No. RN101784692

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit is included in violation no. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 24-Apr-2015

Docket No. 2015-0670-PST-E

PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(4) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide corrosion protection to all underground metal components of a UST system. Specifically, the metal components of the three submersible turbine pumps did not have corrosion protection.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 52

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the March 3, 2015 investigation date to the April 24, 2015 screening date.

Good Faith Efforts to Comply

10.0%

Reduction \$375

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes The Respondent achieved compliance on May 19, 2015 after the NOE dated April 17, 2015.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$3,157

This violation Final Assessed Penalty (adjusted for limits) \$3,157

Economic Benefit Worksheet

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Case ID No. 50468

Reg. Ent. Reference No. RN101784692

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$1,500	3-Mar-2015	19-May-2015	0.21	\$1	\$21	\$22
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install corrosion protection for the metal components of the submersible turbine pumps. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$22

Screening Date 24-Apr-2015

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PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a)

Violation Description Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent had not conducted the annual line leak detector and piping tightness testing.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 64 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
single event		

Violation Base Penalty \$3,750

One annual event is recommended for the period preceding the March 3, 2015 investigation date.

Good Faith Efforts to Comply

25.0%

Reduction

\$937

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance on April 12, 2015 prior to the NOE dated April 17, 2015.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$125

Violation Final Penalty Total \$2,566

This violation Final Assessed Penalty (adjusted for limits) \$2,566

Economic Benefit Worksheet

Respondent F & K ENTERPRISE, INC. dba Kwik Mart
Case ID No. 50468
Reg. Ent. Reference No. RN101784692
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$118	29-Dec-2014	12-Apr-2015	1.20	\$7	\$118	\$125

Notes for AVOIDED costs

Estimated cost to conduct the annual line leak detector and piping tightness testing. The Date Required is the date the testing was due and the Final Date is the compliance date.

Approx. Cost of Compliance

\$118

TOTAL

\$125

Screening Date 24-Apr-2015

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PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 334.42(i)

Violation Description

Failed to inspect all sumps, manways, overspill containers, and catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight and free of any liquid or debris.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

27 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the March 3, 2015 investigation date to the March 30, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance on March 30, 2015 prior to the NOE dated April 17, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$856

This violation Final Assessed Penalty (adjusted for limits) \$856

Economic Benefit Worksheet

Respondent F & K ENTERPRISE, INC. dba Kwik Mart
Case ID No. 50468
Reg. Ent. Reference No. RN101784692
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	2-Jan-2015	30-Mar-2015	1.16	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of the sumps, manways, overfill containers or catchment basins. The Date Required is 60 days before the investigation date and the Final Date is the compliance date.

Approx. Cost of Compliance

\$100

TOTAL

\$106

Screening Date 24-Apr-2015

Docket No. 2015-0670-PST-E

PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)

Violation Description Failed to ensure that all spill and overflow prevention devices are maintained in good operating condition. Specifically, the regular unleaded, super unleaded, and diesel spill buckets contained multiple cracks, preventing them from containing spills.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 29

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended from the March 3, 2015 investigation date to the April 1, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance on April 1, 2015 prior to the NOE dated April 17, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$856

This violation Final Assessed Penalty (adjusted for limits) \$856

Economic Benefit Worksheet

Respondent F & K ENTERPRISE, INC. dba Kwik Mart
Case ID No. 50468
Reg. Ent. Reference No. RN101784692
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$1,200	3-Mar-2015	1-Apr-2015	0.08	\$0	\$6	\$7
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to replace the damaged spill buckets (as per invoice). The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,200	TOTAL	\$7
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Screening Date 24-Apr-2015

Docket No. 2015-0670-PST-E

PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 334.602(a)

Violation Description Failed to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 52

Table for event frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$1,250

One quarterly event is recommended from the March 3, 2015 investigation date to the April 24, 2015 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$1,184

This violation Final Assessed Penalty (adjusted for limits) \$1,184

Economic Benefit Worksheet

Respondent F & K ENTERPRISE, INC. dba Kwik Mart
Case ID No. 50468
Reg. Ent. Reference No. RN101784692
Media Petroleum Storage Tank
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$150	3-Mar-2015	20-Jan-2016	0.88	\$7	n/a	\$7
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain the required operator training and designate a Class A, Class B, and Class C operator. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$7

Screening Date 24-Apr-2015

Docket No. 2015-0670-PST-E

PCW

Respondent F & K ENTERPRISE, INC. dba Kwik Mart

Policy Revision 4 (April 2014)

Case ID No. 50468

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101784692

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 115.245(2) and Tex. Health and Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the annual testing of the Stage II equipment was not conducted by the March 5, 2014 due date.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

64 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$1,250

One annual event is recommended for the period preceding the March 3, 2015 investigation date.

Good Faith Efforts to Comply

10.0%

Reduction \$125

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on April 18, 2015 after the NOE dated April 17, 2015.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$530

Violation Final Penalty Total \$1,052

This violation Final Assessed Penalty (adjusted for limits) \$1,052

Economic Benefit Worksheet

Respondent F & K ENTERPRISE, INC. dba Kwik Mart
Case ID No. 50468
Reg. Ent. Reference No. RN101784692
Media Petroleum Storage Tank
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	29-Dec-2014	18-Apr-2015	1.22	\$30	\$500	\$530
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct the annual testing of the Stage II equipment. The Date Required is the date the testing was due and the Final Date is the compliance date.

Approx. Cost of Compliance \$500

TOTAL \$530

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604211516, RN101784692, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604211516, F & K ENTERPRISE, INC. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN101784692, Kwik Mart **Classification:** HIGH **Rating:** 0.00

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 8300 LA PRADA DR, SUITE 130 DALLAS, TX 75228-5000, DALLAS COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 44950

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: April 28, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 24, 2010 to April 24, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Rebecca Boyett

Phone: (512) 239-2503

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 August 23, 2011 (941670)
Item 2 January 28, 2014 (1143893)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
F & K ENTERPRISE, INC. DBA
KWIK MART
RN101784692

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2015-0670-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding F & K ENTERPRISE, INC. dba Kwik Mart ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates a convenience store with retail sales of gasoline at 8300 La Prada Drive, Suite 130 in Dallas, Dallas County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 22, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seventeen Thousand Five Hundred Thirty-Eight Dollars (\$17,538) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Sixteen Dollars (\$416) of the administrative penalty and Three Thousand Five Hundred Seven Dollars (\$3,507) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Thirteen Thousand Six Hundred Fifteen Dollars (\$13,615) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Eighty-Nine Dollars (\$389) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent implemented the following corrective measures:
 - a. Submitted a properly completed UST registration and self-certification form, and obtained a valid TCEQ delivery certificate on March 5, 2015;
 - b. Installed corrosion protection for the metal components of the submersible turbine pumps on May 19, 2015;
 - c. Conducted the annual line leak detector and piping tightness testing with passing results on April 12, 2015;
 - d. Began conducted bimonthly inspections of the sumps, manways, overflow containers, and catchment basins on March 30, 2015;
 - e. Replaced the damaged spill bucket at the Station on April 1, 2015; and
 - f. Conducted the annual testing of the Stage II equipment with passing results on April 18, 2015.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Station, the Respondent is alleged to have:

1. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on March 3, 2015. Specifically, the delivery certificate expired on June 30, 2013.
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on March 3, 2015. Specifically, twelve fuel deliveries were accepted on January 24, 2014, February 21, 2014, March 18, 2014, April 14, 2014, May 10, 2014, June 3, 2014, July 31, 2014, September 5, 2014, October 7, 2014, November 10, 2014, December 8, 2014, and February 5, 2015 without a delivery certificate.
3. Failed to provide corrosion protection to all underground metal components of a UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on March 3, 2015. Specifically, the metal components of the three submersible turbine pumps did not have corrosion protection.
4. Failed to provide release detection for the pressurized piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on March 3, 2015. Specifically, the Respondent had not conducted the annual line leak detector and piping tightness testing.
5. Failed to inspect all sumps, manways, overspill containers, and catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight and free of any liquid or

- debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on March 3, 2015.
6. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on March 3, 2015. Specifically, the regular unleaded, super unleaded, and diesel spill buckets contained multiple cracks, preventing them from containing spills.
 7. Failed to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C, in violation of 30 TEX. ADMIN. CODE § 334.602(a), as documented during an investigation conducted on March 3, 2015.
 8. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH AND SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 3, 2015. Specifically, the annual testing of the Stage II equipment was not conducted by the March 5, 2014 due date.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: F & K ENTERPRISE, INC. dba Kwik Mart, Docket No. 2015-0670-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, obtain the required operator training and designate a Class A, Class B, and Class C operator, in accordance with 30 TEX. ADMIN. CODE § 334.602; and

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona Moncrie J
For the Executive Director

4/19/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Naqem Bhaiwala
Signature

SEP-09-2015
Date

NAQEM BHAIWALA
Name (Printed or typed)
Authorized Representative of
F & K ENTERPRISE, INC. dba Kwik Mart

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.